



HARYANA REAL ESTATE REGULATORY AUTHORITY, PANCHKULA.

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Subject: Extract of the resolution passed by the Haryana Real Estate Regulatory Authority, Panchkula in its meeting held on 09.05.2019.

Item No. 51.7

Consideration of the applications received by the Authority for Registration of New Projects.

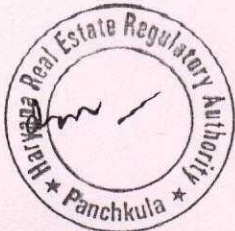
(iii) Promoter : Dwarkadhis Projects Pvt. Ltd.

Project : "Casa Romana" – Residential Group Housing Colony on land measuring 8.376 acres situated in Sector-22, Dharuhera, District Rewari.

1. An application for registration of the project named "Casa Romana" being developed by M/s Dwarkadhis Projects Pvt. Ltd. on the land measuring 8.376 acres in Sector-22, Dharuhera, District Rewari was received by the Interim Authority in July, 2017. The Interim Authority could not take final decision in the matter and it was placed before this Authority for the first time in its meeting held on 13.03.2018. Certain observations were conveyed to the applicant. An observation had also been conveyed that the promoter will submit road map for giving possession of the already allotted 432 units alongwith quarterly schedule for construction of laying various services.

(The Director of the promoters' company Shri Vikas Jain corrected the figures that actually 660 apartments were to be constructed in the project out of which 446 have been sold).

2. The application for registration of this project was again considered by the Authority in its meeting held on 25.04.2018, when some further observations were made including that the construction of the project has been halted and the license which was valid upto 13.03.2017 has not been renewed. In October 2018, the system of online filing of applications was commenced in compliance



of which now the applicants have filed a fresh application which has been placed before the Authority for consideration today.

3. Shri Vikas Jain, Director of the applicant's company stated as follows:-

- i) That initially license No. 13 of 2013 was granted for the area measuring 13.237 acres for construction of a Group Housing Project. Later the license was sub divided vide Town and Country Planning Department letter Endst. No. LC-3697-JE(SK)-2019/3943 dated 12.02.2019 in which a Group Housing Project on the land measuring 8.376 acres was allowed to be developed as a separate project. The validity of the license even in respect of the sub divided project remained the same i.e. 18.03.2017.
- ii) That the project was launched in August, 2014. Booking of 446 booked apartments was done upto late 2017. Shri Jain stated that total 11 towers have to be constructed in the project out of which 8 Towers in Phase-I are complete to the extent of 70% and the remaining three towers of Phase-II are complete upto 40%.
- iii) That building plans of all the towers were approved by the Town and Country Planning Department vide their order dated 19.04.2013. Further, construction work of the towers is being undertaken strictly as per the plans approved by the Department and there is no deviation whatsoever.
- iv) Regarding internal infrastructure, plans were submitted to the relevant Authority i.e. HSVP for approval, but, the same now have to be revised in respect of the sub divided license area measuring 8.376 acres. Shri Jain undertakes that the revised infrastructure plans in respect of the project land measuring 8.376 acres will be submitted to the Town and Country Planning/HSVP Department within next 30 days.
- v) That before expiry of the license on 18.03.2017, an application dated 17.02.2017 was filed with the Town and Country Planning Department for renewal of the license. The license however has still not been renewed. Shri Jain states that in response to their application of February,



2017, a letter memo no. DGTCP/ACCTTS/AO-II/2018/189 dated 7.3.2018 had been received stating that their case for renewal of license is at advanced stage of consideration. He further produced a letter no. DGTCP/ACCTTS/AO-II/2019/1492 dated 12.03.2019 in which it is again stated that their case for renewal of license is at advanced stage of consideration.

- vi) That probably one of the reasons for non-renewal of the license is that an amount of Rs. 11.27 crores is outstanding as over-dues of EDC, license fee etc. against the project. Shri Jain states that the EDC amounting to Rs. 13.20 crores in respect of their another project license Nos. 41-42 of 2007 is due to be refunded by the Department against which the pending EDC in respect of the project in question could be adjusted. He supported this contention with a copy of the letter dated 4.7.2018 written by them to the Additional Chief Secretary to Government of Haryana, Town and Country Planning Department, Haryana. According to Sh. Jain, as per policy of the State Government, refundable EDC amount can be adjusted against the payable EDC of this project. If this request is considered by the State Government as per Policy, there will be no pending EDC dues towards the project in question and their license can be renewed.
- vii) That for want of registration of the project with the Authority, the allottees are not able to get their apartments financed from banks and other financial institutions because institutions insist on registration of the project with RERA for consideration of the application for sanction of the loans. He stated that for completion of the said project, expenditure of about Rs. 70 crores is required against which Rs. 45 crores are due to be recovered from the allottees and keeping in view the current stage of development, further unsold inventory of Rs. 90 crores is available, which can be encashed after registration of the project.
- viii) Shri Vikas Jain, requested for registration of the project for facilitating early completion of the project because 446 allottees are awaiting



possession of their apartments. The due date for completion of the project was March, 2019 and now it is getting delayed because Town and Country Planning Department is unnecessarily delaying renewal of their license and for that reason this Authority is not granting the registration certificate.

4. The Authority after careful consideration of the submissions made by the Director and other representatives of the company, observes and orders as follows: -

- i) The project has been granted license No. 13 of 2013 by the State Govt. This license was duly bifurcated into the present project on the land measuring 8.376 acres of which the license was valid upto 18.03.2017.
- ii) Building and other plans of the project have been approved by the State Government vide letter memo no. ZP-873/AD(RA)/2014/15199 dated 14.07.2014.
- iii) Based on the license and the approved plans, the promoters launched the project in 2014 and by the end of 2017, 446 allottees purchased the apartments. As per statements, the promoters are developing the project strictly in accordance with the approved plans. They claim that much more money has been invested in the project than the money collected from allottees.
- iv) The developers had applied for the renewal of the license well within time on 17.02.2017 i.e. before the expiry of their earlier license. It is note-worthy that the Town and Country Planning Department has written two letters are dated 07.03.2018 and 12.03.2019 stating therein that the application for renewal of license is at an 'advance stage of consideration'. The Town and Country Planning Department has not raised any objection, legal or otherwise, conveying in any manner that there is any defect in the application or the same cannot be renewed for any reason. The Town and Country Planning Department is sitting over the application for renewal of license for the last more than 2 years. For



want of renewal of license, the Authority has not registered this project. Consequent to the non-registration of the project, further finances are not possible to be arranged by the allottees and the project is not getting completed and is getting delayed. This situation may create further disputes between the promoters and the allottees. Such a scenario must be avoided.

- v) The Authority considers that in the absence of any objection from the Town and Country Planning Department against renewal of license, it should be presumed that their license will be renewed in due course of time. Non-renewal of license due to any technical reason like adjustment of EDC dues etc. should not come in the way of prolonging registration to the project. This otherwise, will create a vicious circle which eventually may jeopardize the entire project.
- vi) At this point of time, the Authority is considering it appropriate to analyze the theory of granting of license by the State Government to a project and its renewal from time to time.

A piece of raw land becomes a 'real estate project' after grant of a license and approval of its building plans by the State Government. Granting of license and approval of plans pre-supposes that the builders has paid all the dues and has also complied with all prescribed terms and conditions of law/ rules/ guidelines framed by the State Government from time to time. Accordingly, after receipt of license and approval of plans the developer become fully entitled and authorized to launch the project and seek booking from prospective allottees.

The allottees pay their hard money to the developers' licensed colony with duly approved plans on the basis of license granted and plans approved by the State Government. The licensed and approved plans thus attained the status of sovereign assurance of the State Government given to the general public that they may safely invest in the project and nothing will go wrong with this investment. This assurance given by the Town and Country Planning Department is a sovereign guarantee to the



public. The sovereign assurance granted to the allottees by way of license and other approvals cannot be amended, altered or re-structured in any manner with retrospective effect or without appropriate Authority of the legislature. The grant of license and approval of plans becomes a commitment of the State Government to the allottees that they will get the apartment in terms of the agreement as per the approved plans. It also implies guarantee of the safety of their investment.

- (vii) Now, after launching of the Project and creation of 3rd party interests, the license and the development plans becomes irrevocable. It is possible that some developers may become defaulters in payment of EDC, license fee etc. to the State Government. To enforce the payment of such over-dues, the State Government is entitled to adopt any lawful means available but it cannot implicitly or explicitly mean that the license of the sanctioned project would be withdrawn/withheld/ altered. In other words, the State Government is entitled to recover its over-dues by attaching any property of the developers or by filing civil suit or by attaching unsold or undeveloped portion of the project but the portion of the project in respect of which third party rights have been created that goes out of the powers of the State Government except for the purpose of granting occupation certificates at the relevant stage or for ensuring that development has been done in accordance with the approved plans, etc. Accordingly, the State Government cannot withhold renewal of license of a project in respect of which third party rights have been created. The Authority is of considered opinion that in the event of delay in renewal of license on the part of the State Government, the Authority cannot and should not withhold grant of registration because banks and financial institutions will not finance an apartment in a project which has not been registered with the Authority. Thus, a project which is otherwise being developed as per plans cannot denied registration if its delay is being caused in renewal of its license.



5. In the light of foregoing discussions, the Authority decides to register this project subject to the following conditions:-


- i) That the Applicant/Promoters shall follow up with Town and Country Planning Department for renewal of their license and report its status to the Authority periodically.
- ii) The promoters shall constitute a Resident Welfare Association (RWA) of the allottees and organize their meeting within next 30 days and apprise them of future course of action for completing the development works.
- iii) A meeting of the RWA shall be held every two months for up-dating to them the status of the project.
- iv) An initial period of two months is hereby given to the promoters/applicants for mobilizing man-power and financial resources for recommencing construction works of the project. After a period of two months they will report its progress to the Authority.
- v) A suo motu complaint shall be registered by the Authority for monitoring the progress of the promoters/applicants. Since, this is a first of its kind order, the Authority will monitor the progress of the project every two months.
- vi) A copy of this order shall be sent to the Town and Country Planning Department with a direction to decide the application of the promoters/applicants for renewal of their license expeditiously. On the next date of hearing i.e. 19.08.2019, Town and Country Planning Department shall submit their reply about the status of renewal of the license and the status of adjustment of EDC with the refundable EDC of another license No. 41-42 of 2007. They will also submit the status of consideration of the revised service plans of the project.



vii) This registration is being granted subject to the condition that in case any of the statements made by the promoters/applicants is found incorrect, this registration will be reviewed. Further, if any additional condition is imposed by the Town and Country Planning Department while renewing the license, the same shall be followed and informed to this Authority.

7. Chief Town Planner shall prepare the registration certificate accordingly after duly incorporated the aforesaid conditions.

True copy


Executive Director,
HRERA, Panchkula



A copy of the above is forwarded to CTP, HRERA Pkl. for information and taking further action in the matter.